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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,756	02/13/2001	Stevan P. Vasic	11129.2	9702
21999 7590 01/22/2009 KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111				
EXAMINER SHEIKH, ASEAND M				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/782,756

Applicant(s)

VASIC, STEVAN P.

Examiner

Asfand M. Sheikh

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 94-96, 99-106 and 118-150 is/are pending in the application.
- 4a) Of the above claim(s) 107-108, 110, 113-117 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 94-96, 99-106 and 118-150 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The examiner notes the amendment filed on 10/6/2008 has been entered. The examiner notes that claims 94-96, 99-106, 118, and 119-150 are pending for examination. The examiner further notes that claims 107-108, 110, and 113-117 are withdrawn from consideration.

Election/Restrictions

Claims 107-108, 110, and 113-117 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species 2, which was directed to distribution of payroll access by a third party with the restriction of verifying that wages have been earned in the amount at least equal to said request for said payroll access, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/6/2008.

Response to Arguments

Applicant's arguments, filed 5/12/2008 with respect to the rejection(s) of claim(s) 94-96, 99-106, 118 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kravetz in view of Watkins.

Official Notice

Since the Applicant did not seasonably traverse the well-known Official Notice statement as stated in the Office Action dated on 6/5/2007, The Examiner notes the object of the well-known Official Notice statement is taken to be admitted prior art. See MPEP §2144.03.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 94-95, 99-106, 118-150 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz et al. (US 6,397,196) in view of Watkins (US 6,347,305).

As per claim 94, 118-150, Kravetz teaches providing payroll access to an employee through a third party upon demand by said employee, comprising receiving an electronic request (Kravetz, see at least, col. 4, lines 38-40) for said payroll access against wages of said employee (Kravetz, see at least, col. 4, lines 5-12), wherein said request is made from said employee to said third party who is not an employer of said employer of said employee (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2) and wherein said payroll access is upon demand and does not require a predetermined scheduling of said payroll access (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2); authorizing a distribution of payroll by the third party based

upon said electronic request (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2); automatically distributing said payroll distribution to said employee and deducting an amount corresponding to said payroll distribution from a future wage payment to said employee (Kravetz, see at least, col. 4, lines 5-12 and lines 38-40; FIG. 2) and **further discloses a transactional fee attached to said electronic request for payroll access (e.g. interest being built on the advance) (see at least, col. 4, lines 19-26) and further [claims 141 and 150]the examiner notes a fund transfer from a bank to an employee (e.g. master bank account) to an employee (e.g. sub account associated with the employee therefore interest can be built on the request (see at least, col. 4, lines 19-26)**

Kravetz fails to disclose wherein said wages have been by said employee but not yet been paid to said employee by said employer and further verifying that wages have been earned by said employee and further the hours/days worked by said employee

However Watkins discloses [Claims 119-120 and 123-125] a payroll deduction wherein said wages have been earned said employee but not yet been paid to said employee by said employer (see at least, col. 6, lines 14-18: the examiner notes sets of rules for payroll deduction for hourly and salary employees and col. 7, lines 5-31) Further based on the idea of a salaried employee there wages are set by a base salary therefore every future paychecks is paid at a set given amount. From this the examiner notes by allowing the Employer to review (e.g. verify) a payroll deduction the Employer/Employee understands that the future wage earned by a salary employee (e.g. a future

paycheck amount earned) will be deducted from that given employee's paycheck therefore it would be a request on the earned salary wage for an employee who has not been paid yet and further the same could be applied to hourly workers based on the hours/days they work). Further Watkins discloses [Claims 121-122] verifying the wage is less than a selected percentage (see at least, col. 5, lines 62 – col. 6, lines 28)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kravetz to include wherein said wages have been by said employee but not yet been paid to said employee by said employer and further verifying that wages have been earned by said employee as taught by Watkins. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow the use of payroll deduction to take place via on-line commerce (see at least, Watkins, col. 2, lines 35-37).

As per claim 95, Kravetz teaches wherein said electronic request is received via an automated teller machine and said payroll advance is forwarded to said automated teller machine (Kravetz, see at least, col. 4, lines 38-40).

As per claim 100, Kravetz teaches wherein said payroll distribution is preformed using payroll access resource (Kravetz, see at least, FIG. 2).

As per claim 101, Kravetz teaches wherein said payroll access resource is one of: a bank account (Kravetz, see at least, FIG. 2), a credit account, a secondary payroll access account, a shared amount, a trust account, a temporary account, a savings account, and a checking account.

As per claim 102, Kravetz teaches wherein the payroll access resource is an account holding party selected from the group consisting of: the employer, a bank (Kravetz, see at least, FIG. 2), a credit union, and a third-party financial institution.

As per claim 103, Kravetz teaches wherein said authorizing comprises determining an amount of money available through said payroll access (Kravetz, see at least, col. 4, lines 13-27 and lines 38-40).

As per claim 104, Kravetz teaches wherein said determining an amount of money available through said payroll advance is determined before said distribution (Kravetz, see at least, col. 4, lines 13-27 and lines 38-40).

As per claim 105, Kravetz teaches wherein said authorizing comprises charging a transaction fee to said employee (Kravetz, see at least, col. 4, lines 10-11).

As per claim 106, Kravetz teaches distributing comprises charging a transaction fee to said employee (Kravetz, see at least, col. 4, lines 10-11).

As per claim 116, the Examiner asserts that it is inherent that loan amount available to a user is at least partially based on a relative risk of non-payment during the application process (Kravetz, see at least, col. 4, lines 63-67 and col. 5, lines 1-11).

Claim 96 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kravetz et al. (US 6,397,196) in view of Watkins (US 6,347,305) as applied to claim 94 above, and in further view of Official Notice.

As per claim 96, the Examiner takes Official Notice that communication via the Internet and telephone was old and well known at the time of the invention.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Georgetown in view of Kravetz with Internet or telephone communication because it is well known in the art, that Internet and telephone communication offer high speed and reliable communication platforms with easy accessibility.

Claims 99 are rejected under 35 U.S.C. 103(a) as being unpatentable Kravetz et al. (US 6,397,196) in view of Watkins (US 6,347,305).as applied to claim 94 above, and in further view of Risafi et al. (hereinafter Risafi).

As per claim 99, the examiner notes that Kravetz silent with respect to wherein said authorizing distribution comprises at least one of (i) a personal identification

number, (ii) a biometric identification, (iii) a password, (iv) an electronic key, (v) a signature verification, (vi) a photo identification to authenticate said employee.

Risafi discloses the use of a PIN for an ATM (Risafi, see at least, col. 7, lines 50-55).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kravetz to include a PIN as taught by Risafi. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide improved security via the use of a PIN.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand M. Sheikh/
Examiner, Art Unit 3627

1/16/2009

/F. Ryan Zeender/
Supervisory Patent Examiner, Art Unit 3627